

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DAVID MORENO and DEPARTMENT OF THE ARMY,
FORT SAM HOUSTON, Tex.

*Docket No. 96-923; Submitted on the Record;
Issued January 21, 1998*

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant is entitled to receive a schedule award for permanent impairment of the right upper extremity.

The Board has duly reviewed the case record and finds that appellant has not established entitlement to a schedule award in this case.

Under section 8107 of the Federal Employees' Compensation Act¹ and section 10.304 of the implementing federal regulations,² schedule awards are payable for permanent impairment of specified body members, functions or organs. However, neither the Act nor the regulations specify the manner in which the percentage of impairment shall be determined. For consistent results and to ensure equal justice under the law for all claimants, good administrative practice necessitates the use of a single set of tables so that there may be uniform standards applicable to all claimants. The American Medical Association, *Guides to the Evaluation of Permanent Impairment*³ (hereinafter A.M.A., *Guides*) have been adopted by the Office of Workers' Compensation Programs, and the Board has concurred in such adoption, as an appropriate standard for evaluating schedule losses.⁴

The facts in this case indicate that on September 15, 1994 appellant sustained an employment-related laceration to the right forearm. On December 21, 1994 he filed a claim for a schedule award which was denied by the Office in a decision dated December 5, 1995.

¹ 5 U.S.C. § 8107.

² 20 C.F.R. § 10.304.

³ American Medical Association, *Guides to the Evaluation of Permanent Impairment* (4th ed. 1993).

⁴ See *James J. Hjort*, 45 ECAB 595 (1994); *Leisa D. Vassar*, 40 ECAB 1287 (1989); *Francis John Kilcoyne*,

The Office found that the weight of the medical evidence established that appellant did not sustain a permanent partial impairment.

The relevant medical evidence indicates that, following referral by Dr. Lonnie F. Roeder, appellant's treating Board-certified orthopedic surgeon, Dr. H.H. Herrera, an anesthesiologist who conducts disability evaluations, evaluated appellant utilizing the A.M.A., *Guides*. By report dated June 15, 1995, Dr. Herrera advised that, upon examination, appellant had no impairment, indicating that he had full range of motion of his fingers, wrists, elbows and shoulders, no sensory loss of his upper extremity, and no evidence of wasting or loss of strength. In an October 4, 1995 treatment note, Dr. Roeder concurred with Dr. Herrera's findings.

The Board has reviewed the record and finds no probative evidence that provides a description of a permanent impairment of any enumerated part of the body. Dr. Herrera evaluated appellant utilizing the A.M.A., *Guides* and found no impairment, and Dr. Roeder concurred with this finding. Accordingly, the Board finds that appellant has not established entitlement to a schedule award under 5 U.S.C. § 8107.

The decision of the Office of Workers' Compensation Programs dated December 5, 1995 is hereby affirmed.

Dated, Washington, D.C.
January 21, 1998

George E. Rivers
Member

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member